

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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5 BANK OF AMERICA, N.A., *et al.*,

6 Plaintiffs,

7 vs.

8 THE VILLAS COMMUNITY ASSOCIATION,  
9 et al.,

10 Defendants.

11 2:16-cv-00516-APG-VCF

12 **ORDER GRANTING ENLARGEMENT OF  
TIME TO SERVE AND SERVICE BY  
PUBLICATION (ECF NOS. 47 &48)**

13 Before the court are Cross-Claimant SFR Investments Pool 1, LLC's ("SFR") Motion to Serve  
14 Dorothy K. Lopez (ECF No. 47) and Motion to Enlarge time to Serve Summons and Cross-Claim (ECF  
15 NO. 48).

16 On May 18, 2016, SFR filed an Answer and Counterclaim against Counter-Defendant Bank of  
17 America, N.A. and Cross-Defendant Dorothy K. Lopez. (ECF No. 24). SFR seeks quiet title and  
18 injunctive relief. *Id.* SFR filed the instant motions on August 12, 2016. (ECF NOS. 47 & 48).

19 SFR asks this court to permit service of the Summons and Counterclaim against Cross-Defendant  
20 Dorothy K. Lopez by publication. *Id.* SFR also asks this court to extend the time in which to effectuate  
21 service under Federal Rule of Civil Procedure 4(m). *Id.*

**Service By Publication**

22 Pursuant to Fed. R. Civ. P. 4(e)(1), "an individual – other than a minor, an incompetent person, or  
23 a person whose waiver had been filed – may be served in a judicial district of the United States by  
24 following state law for serving a summons in an action brought in courts of general jurisdiction in the state  
25 where the district court is located or where service is made." Under Rule 4(e)(1) of the Nevada Rules of

1 Civil Procedure, “when the person on whom service is to be made resides out of the state, or has departed  
2 from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid  
3 the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge  
4 thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action  
5 exists against the defendant in respect to whom the service is to be made, and that the defendant is a  
6 necessary or proper party to the action, such court or judge may grant an order that the service be made  
7 by the publication of summons.”

8 SFR asserts that the after diligent effort, it is unable to serve Dorothy K. Lopez within the states  
9 of Nevada and Colorado. (ECF No. 47 at 4). In support of this assertion, SFR provided the court with  
10 several affidavits of attempted services (ECF No. 47-1 at 2). The last known address for Dorothy K.  
11 Lopez is 9039 East Panorama Circle, Unit 303, Englewood, Colorado 80112. (ECF No. 47 at 4). Service  
12 at this address was unsuccessful. *Id.*

13 The court finds that pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1), permitting  
14 service by publication of the Summons and the Counterclaim on the Dorothy K. Lopez is warranted.  
15 Pursuant to Rule 4(e)(1)(iii), the publication must be made in a newspaper, published in the State of  
16 Nevada, for a period of 4 weeks, and at least once a week during said time. Nev. R. Civ. P. 4(e)(1)(iii).

17 **Extension For Service**

18 Fed. R. Civ. P. 4(m) requires a defendant to be served within 90 days after the complaint is filed.  
19 If “the plaintiff shows good cause for the failure [to serve a defendant within that time-frame], the court  
20 must extend the time for service for an appropriate period.” Fed. R. Civ. P. 4(m).

21 SFR must effectuate service on Dorothy K. Lopez by August 16, 2016. Fed. R. Civ. P. 4(m). SFR  
22 asserts that an additional 60 days is required to effect service by publication, and asks this court to extend  
23 the 4(m) deadline. *Id.*

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Given that SFR has demonstrated "good cause" for its failure to effectuate service and has provided support for its request for an extension, the court will extend the 4(m) deadline until December 6, 2016, as requested. *See Fed. R. Civ. P. 4(m).*

Accordingly, and for good cause shown,

IT IS HEREBY ORDERED that Cross-Claimant SFR Investments Pool 1, LLC's ("SFR") Motion to Serve Dorothy K. Lopez (ECF No. 47) and Motion to Enlarge time to Serve Summons and Cross-Claim (ECF NO. 48) are GRANTED.

IT IS FURTHER ORDERED that SFR is permitted to serve the Dorothy K. Lopez by publication. A copy of the summons and counterclaim must be mailed to Dorothy K. Lopez at her last known address(es) by certified U.S. Mail, return receipt requested.

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1)(i) and (iii), the Summons in this action must be served by publication in a newspaper, published in the states of Nevada and Colorado, for a period of four weeks and at least once a week during that time.

IT IS FURTHER ORDERED that the deadline to effect service of process is extended up to and including December 6, 2016.

DATED this 5th day of October, 2016.



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CAM FERENBACH  
UNITED STATES MAGISTRATE JUDGE